Pastoral sector applauds landmark access decision

A hard-fought and intense campaign by the Northern Territory Cattlemen’s Association culminated in a milestone victory in November when the government ruled that mandatory access agreements must now be negotiated between pastoralists and mining and petroleum companies wanting to access their land.

The NTCA lobbying followed a motion passed by members at the association’s 2014 AGM, demanding that access agreements be put into place. The industry stresses the decision on access agreements is a direct result of the NTCA’s work. The new arrangements will require access agreements to be signed prior to significant exploration, mining or extraction of resources on pastoral land. Both parties must now agree on conditions of access on fundamental issues including weed management, fire, water, biosecurity, chemical use, erosion control and animal and human health and wellbeing.

While the new arrangements are a significant step they do not give a right of veto over exploration or extraction. “The Chief Minister has shown great leadership, against a culture of resistance, to listen to concerns raised by pastoralists, land holders and the broader community,” NTCA President Tom Stockwell says. “It also acknowledges the need to ensure the integrity of the pastoral and food production industry for generations to come. “Until now there has been no requirement for any agreement and pastoralists have had little capacity to manage their land, animals and livelihoods when mining and resource companies arrive on the door step. “This sets a baseline for how relationships will be managed and the rights of pastoralists and resource companies will be clarified and more secure. It provides greater certainty for the mining, oil and gas sector and the pastoral industry, which will be here for many generations to come.”

Chief Minister Adam Giles says the new land access process strikes a balance between the rights of resource companies to explore and the rights of pastoralists to be advised, informed and consulted before exploration begins. “Mining, petroleum and agriculture are critical to the ongoing economic development of the Northern Territory. This process recognises that mining and petroleum companies need to work together with pastoralists for the future prosperity of the Northern Territory.”

The NTCA’s Darwin office will be closed from Thursday 24 December until Monday 4 January.

We wish all our members and friends in the industry a safe and happy Christmas and we look forward to working with you again in 2016.

To discuss any urgent issues that arise over the break, please call Tracey Hayes
Phone: 0419 845 024
NTCA joins China trade delegation

NT Cattlemen’s Association CEO Tracey Hayes visited China this month as part of a Northern Territory trade and diplomatic delegation led by Chief Minister Adam Giles.

The government-organised trip, from 12-16 December, included talks with senior Chinese government and industry figures, trade presentations and other activities to promote Territory business and industries and identify trade opportunities.

Delegates visited Xi’an, Rizhao and Beijing and attended a welcome event at Beijing’s Australian Embassy.

Others on the trip included NT Government Ministers Dave Tollner and Bess Price, Office of Northern Australia Chief Luke Bowen, NT Farmers Association CEO Shenal Basnayake, department CEOs and tourism representatives.

A follow-up meeting between Chinese business and pastoral interested parties is being planned by NTCA for Central Australia and the Top End at the end of January.

The Indigenous Pastoral Program was named Agricultural Champion at the Territory Natural Resource Management (TNRM) awards presentation in Darwin in November.

The NTCA-initiated program was launched in 2003 as a strategic partnership between Traditional Owners, pastoralists and government agencies. The program works together for sustainable natural resource management and profitable Aboriginal pastoral business outcomes across 34,000 sq km of Indigenous held land. “The program currently engages with 15 individual properties and their land holders, who manage 81,000 head of cattle,” the award citation said. “Through implementing practices to improve natural resource management and productivity outcomes and increasing Indigenous employment skills and knowledge, the program has benefited, and will continue to benefit, Traditional Owners and their land.”

SEE ALSO: Innovative Mt Riddock a winner Story - Page 6

Carley appointed Project Manager

The NTCA is delighted to announce the appointment of Carley Bidstrup, who will start work as ‘Project Manager’ in the Darwin office in the first week of January.

Carley has worked in the NT pastoral industry for a number of years, most recently at Montejinni Station in the VRD. She will be working closely with the NTCA’s Indonesia Australia Pastoral Student Program and the Real Jobs Program, as well as other initiatives.
Kununurra Beef Roads Round Table

The NT Cattlemen’s Association has put a strong case for the Northern Territory to receive a fair share of the federal budget’s committed $100 million for roads, during the recent Northern Beef Roads Funding Round Table in Kununurra.

CEO Tracey Hayes presented a comprehensive submission on behalf of NTCA members, at the east Kimberly forum, which followed a similar forum in Rockhampton, Qld, earlier this year. The NTCA submission highlighted the following issues:

• The beef industry is a key pillar of the north Australian economy and underpins the economies of almost every Northern Territory regional community, directly contributing nearly $500 million.

• Vast Northern Territory cattle stations use six-deck road trains over distances spanning thousands of kilometres, to transport stock to all parts of Australia for domestic or export markets.

• Road and transport infrastructure is critical not only to the present viability of the pastoral industry, but is a major factor in the nation’s ability to maximise the production potential identified in the NT and spoken about in discussions about the ‘Development of Northern Australia’.

• The NTCA is committed to assisting the Australian Government to unlock the potential of Northern Australia through strategic, nation-building investment in critical road infrastructure, through the Northern Australia Beef Roads initiative.

• The $100 million allocated through the Northern Australian Beef Roads Roundtable process is to be distributed across Queensland, the Northern Territory and Western Australia. The NTCA is advocating that the funds be distributed equally across the three jurisdictions to enable each to develop their critical infrastructure with equitable contribution from the Federal Government.

  • The NTCA, in partnership with the Northern Territory Government, has applied the same rationale on the basis of regional equity for allocation of funds to projects within the Territory. In collaboration with Northern Territory beef producers and the Northern Territory Government, the NTCA has identified key projects in each of the Territory’s major pastoral regions.

Through its submission, the NTCA seeks to highlight the current significant industry contribution that has not been captured in calculations to date: This included (1) The significant costs borne by the pastoral industry as a result of the state of the roads, and (2) The significant contribution that NT pastoralists make to the economy by maintaining trucking routes on vast pastoral properties.

The NTCA told the forum the Territory road network covers some 22,000 km of which approximately 70% (15,000 km) is unsealed. This poses significant challenges to industry due to the increased costs of transport, the NTCA contended. ‘The Northern Territory Road Transport Association (NTRTA) has calculated the cost of transport for heavy vehicles on unsealed NT roads as 30% higher than those of sealed roads, with many transport operators charging a fee of $0.10/deck/km or $0.60/road train/km on top of their standard cartage rates, for working on dirt roads. ‘Transport costs are among the biggest expense to the pastoral industry; up to 35% of the sale price of an animal in the NT given the average distance to port or slaughter for NT stations is 835km, so the additional costs to pastoralists are significant.

‘The NTCA recommends that the CSIRO TRANSIT model take into account the 30% higher cost of transporting livestock on unsealed NT roads. ‘In addition to the extra charges for transport of freight and livestock, a number of transport operators refuse to operate on certain roads, such as the Plenty Highway, simply due to the damage it does to their equipment. This reduces competition among transport companies, allowing charges to rise, and these are passed on to pastoralists.’

IMPORTANT NOTICE!

FEDERAL COURT OF AUSTRALIA NOTICE TO GROUP MEMBERS RE: LIVE CATTLE TRADE BAN CLASS ACTION

Starts Page 10

NTCA Cattlenews - December 2015
CEO briefs
Minister on
Tennant Creek
weather radar

NTCA Chief Tracey Hayes used a recent meeting with the Minister for Northern Australia, Josh Frydenburg, to raise the critical issue of Tennant Creek’s now defunct weather radar. She has since followed up the meeting with a letter to the Minister reiterating Barkly members’ concerns about the closure. Minister Frydenburg was told that late on Friday 26 June, the NTCA received a letter via email announcing that the Bureau of Meteorology (BOM) would be shutting down the Tennant Creek weather radar on 30 June.

In 2013 the BOM made a similar announcement, which was fought with determination by the community and the NTCA. With the assistance of local member Warren Snowdon and Senator Nigel Scullion, the radar remained in commission.

“It should have been made abundantly clear at the time just how important this service is to the community, and that the service provided by the radar was by far the most important of any services that the BOM provide,” the NTCA letter said. “Unfortunately, the community of the Barkly region finds itself once again fighting vigorously to have this critical service restored. The BOM has advised that the service it intends to replace the radar with (satellite modelling) will provide the same benefits to the community.

“We understand that this is incorrect and it is not possible for the satellite to deliver the information provided by the rain radar. The rain radar is a service the community values above and beyond any other service that the BOM provides, yet has been taken away.

“It is almost unthinkable that at the same time as the Federal Government is discussing the ‘development’ of northern Australia, critical services such as the Tennant Creek weather radar are being taken away from regional communities and not replaced.”

The NTCA has pursued a number of avenues, including writing directly to Minister Greg Hunt, about re-opening the Tennant Creek radar but there has so far been no positive outcome.

Access agreements to ‘strike a balance’: Chief Minister

What does the process involve?

- The establishment of land access agreements for those exploration activities considered to create more disturbance and require the lodgement of a Mining Management Plan;
- If agreement over conditions for land access cannot be reached within 60 days by mutual consent, the matter will be referred to an arbitration panel to be made up of high level government and industry representatives;
- The arbitration panel will arbitrate between the parties for a successful agreement within 21 days of the formation of the panel;
- Once agreement has been reached, the Department of Mines and Energy may approve the Mining Management Plan.

Chief Minister Giles said the Department of Mines and Energy had developed a best practice framework for exploration when negotiating access arrangements with landholders that ensured a balance between the interests of pastoralists and resource companies.

“These enhanced stakeholder engagement protocols provide added structure to any existing land access arrangements that may exist,” he said. “From a handshake to a fully documented process, this process recognises that individual property managers, mining and petroleum companies need more than a ‘one size fits all’ approach. Pastoralists will be provided with the opportunity to gain early knowledge of what may be planned by the explorer, and for both parties to discuss appropriate shared land-use arrangements that allow respective activities to take place without undue inconvenience or disruption.”

Mr Giles said the continuing good relations between landholders and explorers required recognition of the rights and responsibilities of both parties and establishing good communication. “Access agreements will provide a mechanism for certainty for resource companies and for pastoralists who will continue to manage the land for many generations to come,” he said.

“All resources (minerals, oil and gas) are owned by the Territory and the Territory has the right to authorise the exploitation of those resources. All Territorians also benefit from royalties paid by companies and the economic development associated with these resources.

The announcement highlights the importance of both the resources and the agriculture sectors to the future economic prosperity of the Territory.”

Territory Chief Vet moves on

The NTCA joined in farewelling Northern Territory Chief Veterinary Officer Malcolm Anderson at a morning tea hosted by the NT Government. After three successful years in the job Malcolm is moving on and relocating to Adelaide. Executive Officer Tom Ryan says the NTCA, its members and the cattle industry in general have enjoyed a helpful and productive working relationship with Malcolm since he arrived from South Australia to take up his position with the Department of Primary Industry and Fisheries.

In his first day on the job, Malcolm found himself in the midst of an industry emergency when news came through of the BJD outbreak, and he dealt with it very efficiently and pragmatically, Tom said. “We thank Malcolm for his work and wish him all the best for his future.”
Northern Australia Investment Forum

Federal Trade Minister Andrew Robb and new Minister for North Australia Josh Frydenberg flew into Darwin for the North Australia Investment Forum in November. The invitation-only event, linked to the Federal White Paper on Developing Northern Australia, was an opportunity for international companies to hear of future plans to develop the north.

NTCA CEO Tracey Hayes attended the forum and also took the opportunity for a one-on-one meeting with Minister Frydenberg to raise issues of major importance to the northern cattle industry. Topics included the allocation of funds under the Northern Beef Roads program (See Page 3) and the closure of the Tennant Creek Radar (Page 4).

ABOVE: NTCA CEO Tracey Hayes discusses industry issues with Minister Frydenberg.

Port leasing a sound move for industry: NTCA

The cattle industry has welcomed the Northern Territory Government's recent decision to lease the Port of Darwin to the Chinese-owned Landbridge Group. Landbridge was selected as the successful applicant to lease the port facilities for 99 years at a cost of $506 million.

NTCA Chief Executive Tracey Hayes, said it was vital that Australia's busiest live cattle shipping port had appropriate and efficient infrastructure. "We think this is a significant step towards developing the Territory and growing our economy," she said. "Some 600,000 head of cattle were shipped out through the Darwin Port last year. Numbers like that make it one of the busiest, if not the busiest, live export ports in the world.

"To be in a position to grow our industry, to increase our productive capacity, it is essential that we have appropriate infrastructure in the supply chain to support that. We are seeing increasing pressure placed upon us from other countries, and we are now having to compete more and more in the global marketplace.

"If we don't have appropriate infrastructure to enable us, to support our industries, to get our product and become a trade hub, then we are at a significant disadvantage."

Australian Livestock Exporters Council Chief Executive Alison Penfold also welcomed the decision, saying the Port of Darwin was a critical access point for live cattle and needed to function efficiently to cater for an expected future growth in the trade.

Port Darwin export stats

A total of 451,153 head of live cattle had been exported through the Port of Darwin by the end of November - 21,405 less than for the same period last year.

In November alone, 32,012 cattle had been shipped out, including 19,847 from NT stations.

The total to date compares with 359,616 for the whole of 2013, 493,958 for 2014, and 429,748 for 2015.

A breakdown of numbers so far this year shows: 311,860 going to Indonesia, 96,682 to Vietnam, 21,561 to the Philippines, 11,503 to Malaysia, 6154 to Thailand, 3249 to Brunei and 300 to Sarawak.

On the domestic front so far this year, 10,430 head of Territory cattle have been moved interstate, with 4274 to Queensland, 2550 to NSW, 1726 to South Australia, 1577 to Victoria and 303 to Western Australia.

Source: Pastoral Market Update – Nov 2015
Mt Riddock wins Landcare Award for ‘innovative and sustainable farming practices’

Taking care of the land for future generations is at the heart of work for Mt Riddock Station owners Steve and Rebecca Cadzow. The Cadzows were recognised for their remarkable efforts by being named the winners of the Australian Government Innovation in Sustainable Farm Practices category at this year’s NT Landcare and Territory Natural Resource Management (TNRM) Awards, presented in Darwin in November.

Steve and Rebecca are committed to growing quality chemical-free, environmentally sustainable beef on their family-owned Mt Riddock, which borders the Plenty Highway and Harts Range in north of Alice Springs.

For them, taking care of the land means taking care of every aspect of the landscape as a whole for future generations. They are achieving this through a continuous adaptive management approach that has seen them lead the way in adopting innovative practices in their region.

The Cadzows were among the first to adopt rotational grazing in the arid zone and have worked closely with researchers to test its potential in this landscape context. They have worked closely with researchers to achieve their goals on Mt Riddock, the rundown station bought and developed by Steve’s parents, veteran Territory cattlemen Dick Cadzow and his wife Anne after they moved from Philip Creek Station in the Barkly.

LOCAL SERVICE. NATIONAL STRENGTH

To find out more about our insurance products talk to your local representative.

- Rural Insurance
- Commercial/Business/Industrial Insurance
- Motor Vehicle/Truck/Fleet/Heavy Machinery
- Domestic including caravan, boat, holiday house
- Landlords
- Ruralco now offer Life and Income protection cover, self-managed Superannuation and Private Health

For an obligation free quote, contact Liz Bird Tel: (08) 8956 9793 Email: lbird@ruralcoinsurance.com.au

Ruralco INSURANCE

NTCA Cattlenews - December 2015 6
South East Asian breeder focus providing private venture import incentives

In his latest Southeast Asian Beef Market Report, Dr Ross Ainsworth discusses the expected positive outcomes from breeder imports into Australia’s nearest offshore cattle markets.

‘About six months ago the Indonesian Government allocated large sums of money for provinces to purchase breeding cattle (Australia is the only option for supply).’ the report says. ‘The first shipment has been delivered to Balikpapan in East Kalimantan during November with further shipments planned for Lampung and elsewhere in the new year. ‘This project is initially for distribution of breeders to small holders as a combination social project in low-income rural areas as well as boosting numbers in the national beef herd. ‘The government hopes that once the small holders achieve good results that this will encourage larger industry players to continue the process through commercial imports. The best options for breeder imports are through integration with palm oil plantations. ‘This new focus on breeders is occurring all across SE Asia with the governments in Thailand, Cambodia, Laos, Malaysia and Vietnam all providing a range of incentives to encourage private enterprise to import breeding cattle. ‘Given the very low herd numbers in all of these countries, it heralds the beginning of a whole new trade for breeders which will build over the coming years into a business that will marry up very nicely with the feeder and slaughter cattle trade’.

A Christmas message from the Minister for Primary Industry & Fisheries

Wishing you a safe and joyous Christmas and a prosperous New Year, with warm regards,
Willem Westra van Holthe

A robust year at Roe Creek

The NTCA’s Bohning Yards south of Alice Springs, has celebrated a bumper 2015, with two record-breaking cattle sales and a record total of close to 50,000 head of cattle passing through its facilities during the year.

The state-of-the-art cattle sales and spelling facility at Roe Creek has become a major focal point for producers and buyers moving stock between stations and interstate fattening and sale facilities. Two consecutive record-breaking sales in July, the first offering nearly 3,000 head for sale, provided local and interstate buyers access to high quality Central Australian animals.

The yards are managed by Noel Cuffe who said when he came to the job from Katherine two years ago that he wanted to increase cattle movements through the facility.

The yards offer advanced electronic scanning capacity, EU accreditation and full time onsite management to cater for the cattle industry’s diverse and specialised needs.

The yard facility operates full time with staff on site. Users have access to a feed and watering system to help their stock quickly recover after mustering and transport, and the yard staff prepare cattle for the next leg of their journey to ensuring animals arrive at their ultimate destination in the best possible condition.

Bohning Yards will continue to be staffed over the Christmas-New Year break, with maintenance planned ahead of what’s anticipated to be another big year of cattle movements through the facility in 2016.
As 2015 comes to an end, the NT Cattlemen’s Association can look back on a year that threw up its fair share of challenges and heartbreak, but one also marked by exciting industry milestones and hard-fought battles that have culminated in major advances for the northern cattle sector.

- The NTCA broke all previous attendance records when 600 Australian and overseas delegates converged for its 2015 annual industry conference, focussed on the theme of Developing the North. Conference participants heard and felt the optimism about forecast growth in both the live export and traditional beef sectors, and the expected unprecedented upsurge in demand in existing and emerging new offshore markets.

- Long-time Sturt Plateau cattle producer Tom Stockwell became the new NTCA President in March, taking over from David Warriner who’d completed his three year tenure. Tom, who runs Sunday Creek Station with his wife Bev, said he ‘was honoured to be entrusted to represent the needs of NTCA members and looked forward to advancing the diverse and often challenging issues that impact on their businesses and lifestyle’.

- Fellow Sturt Plateau cattleman and former NTCA president John Armstrong became the NTCA’s newest life member this year, being honoured for his staunch commitment to the northern cattle industry in a range of fields for more than 40 years.

The official opening of AACo’s $91 million Livingstone Beef processing facility by then Prime Minister Tony Abbott on 22 February, was hailed as one of the most exciting advances in decades for the northern beef industry. NTCA CEO Tracey Hayes told guests that the meatworks concept ‘was seeded in the darkest hours of the 2011 Indonesian live export crisis’ and would bring increased market diversity and opportunity for ‘an exciting, innovative, growing and resilient industry that’s integral to much of the fabric of northern Australia’.

- Intense NTCA lobbying on a number of critical fronts resulted in major triumphs for members in 2015. One of the association’s hardest fought battles resulted in last month’s groundbreaking NT Government decision to make properly negotiated land access agreements mandatory for mining, exploration and other interests wanting to enter pastoral properties.

- The NTCA was also a powerful voice at top-level round table forums in Rockhampton and Kununurra, to argue the Territory’s case for a fair share of the $100 million allocated in the federal budget for a northern beef roads program.

- Wild dog management reform was a top priority in 2015. The NTCA staged a strategic campaign for urgent change, after which the NT Government announced a review its overwhelmingly unpopular wild dog management procedures. The move was preceded by a unanimous Alice Springs Branch motion calling on the NTCA executive to ‘strongly address wild dog control issues with the NT Government, including complexity, timeliness and cross-tenure issues’. The NTCA has four regional reps on the new Northern Territory Wild Dog Advisory Committee set up by the government to address this pastoral industry crisis. The findings of the review is currently before the Minister and we can expect an announcement soon.

- Strong livestock movements and hefty sale results boosted the spirits of cattle producers across all regions this year. Close to 50,000 head of cattle passed through the NTCA’s Bohning Yards and sale price records at the facility were broken in two consecutive months this year. Alice Springs livestock agent, Doc Cunningham, told ABC Rural southern sale cattle shortages and the need by Central Australian pastoralists to restock after drought times, had driven demand and pushed prices up. He believed the situation would remain ‘very strong and healthy for a long time to come’.

- Among other 2015 high points, the NTCA unveiled its new Alumni scheme for past participants of the highly successful Australia-Indonesia Pastoral Student initiative. Federal Minister for Agriculture, Barnaby Joyce launched the alumni during a high level function hosted by the Australian Ambassador in Jakarta. Some 54 Indonesian agricultural degree students have now participated in the program, which is funded by the Red Meat Partnership and other organisations.

- The Pastoral Futures and Indigenous Training initiatives have also gone from strength to strength, resulting in an ever-growing workforce of skilled and enthusiastic young trainees ready to launch into cattle station jobs.

- The year ended on another high with the NTCA’s CEO Tracey Hayes travelling with a high-powered Territory delegation to China to promote and identify new business opportunities and markets, based on our premium northern commodities and expertise.

In light of the major advances achieved or progressed in 2015, the NTCA, its members and the cattle industry generally, can look forward to more exciting milestones in 2016.
The balance between foreign ownership, family ownership and corporate ownership: does it matter?

Is the regulatory framework in the NT robust enough to accommodate this model?

The balance between foreign ownership, family ownership and corporate ownership: does it matter?

Is the regulatory framework in the NT robust enough to accommodate this model?

“The Business of Balance”

Key Note Speaker

Dr Tina Hunter
Reader in Energy Law, Aberdeen University, Scotland

“The Balance Between Resource Development and Industry Sustainability under a Shared Land Use Model”

Is the regulatory framework in the NT robust enough to accommodate this model?

John Cotter
Chairman, Gasfields Commission Queensland

“Based on lessons learnt in the East - can the resource sector and the pastoral industry co-exist in the Northern Territory?”

Key Note Speaker

David Williams
Managing Director
Kidder Williams

“Foreign Investment Who owns the Farm?”

The balance between foreign ownership, family ownership and corporate ownership: does it matter?

James Campbell
CEO, Sanger Australia

“E-Commerce - is the way we sell our beef about to be turned on its head? ”

100 million customers at the click of a button.

Registration Details will be available online in early Jan 2016!
FEDERAL COURT OF AUSTRALIA
NOTICE TO GROUP MEMBERS
Live Cattle Trade Ban Class Action

Brett Cattle Company Pty Ltd v The Commonwealth of Australia & Anor
NSD 1102 of 2014

1. Why is this notice important?

A class action (also known as a “group proceeding”) has been commenced in the Federal Court of Australia by the Brett Cattle Company Pty Limited (Brett Cattle Company) against Senator the Honourable Joseph Ludwig in his capacity as the former Minister for Agriculture, Fisheries & Forestry and the Commonwealth of Australia (the Respondents). The action is brought by Brett Cattle Company on its own behalf and on behalf of members of the class. The action arises out of alleged loss and harm suffered by the former Minister’s allegedly invalid decision to temporarily suspend the trade of live cattle to the Republic of Indonesia in June 2011.

The Federal Court of Australia has ordered this notice be published for the information of persons who might be members of the class on whose behalf the class action is brought and may be affected by the action. You should read this notice carefully. Any questions you have concerning the matters contained in this notice should not be directed to the court. If there is anything in it that you do not understand, you should seek legal advice.

2. What is a class action?

A class action is a Court proceeding that is brought by one person (the Applicant) on his or her or its own behalf and on behalf of a group of people (class members) against other persons (the Respondents) where the Applicant and the class members have similar claims against the Respondents.

Class members in a class action are not individually responsible for the legal costs associated with bringing the class action. In a class action, only the Applicant is responsible for the costs.

Class members are bound by any judgment or settlement entered into in the class action unless they have opted out of the proceeding. This means that:

(a) if the class action is successful, class members may be eligible for a share of any settlement monies or Court-awarded damages;
(b) if the class action is unsuccessful, class members are bound by that result; and
(c) regardless of the outcome of the class action, class members will not be able to pursue their claims against the Respondents in separate legal proceedings unless they have opted out.

3. What is Opt Out?

The Applicant in a class action does not need to seek the consent of class members to commence a class action on their behalf or to identify a specific class member. However, class members can cease to be class members by opting out of the class action. An explanation of how class members are able to opt out is found below in the section headed “How can you opt out of the proceeding”.

4. What is this class action that has been brought by the Brett Cattle Company?

This class action, the “Live Cattle Trade Ban class action” is brought by Brett Cattle Company on its own behalf and on behalf of all persons who are group members as defined in the proceeding.

The Respondents to the class action are the Commonwealth of Australia and Senator the Honourable Joe Ludwig in his capacity as the former Minister for Agriculture, Fisheries and Forestry. The allegations in the Live Cattle Trade Ban class action relate to the decision by the then Minister, Senator the Honourable Joe Ludwig, to temporarily suspend the live cattle trade to Indonesia by making the Export Control (Export of Live-stock to the Republic of Indonesia) Order 2011 (the Decision).
Brett Cattle Company claims that the Decision was invalid because the Minister did not have the power to make the Decision in the circumstances that had arisen and for the reasons that the Minister gave. Brett Cattle Company alleges that the Minister did not make the Decision consistently with the purposes of the relevant legislation because of any concerns relating to the maintenance of the export trade. It alleges that instead, the Minister acted beyond his legal powers in response to animal welfare concerns. It also alleges that the Decision was unreasonable and disproportionate in the circumstances which Brett Cattle Company alleges occurred.

Brett Cattle Company claims that the Minister did not care whether he had the power to make the Decision and that he recklessly failed to obtain proper legal advice about the validity of the Decision. It also claims that the Minister knew that the Decision would cause loss and or financial harm to producers, exporters and service providers (see description in section 5(a) below) but did not care about the loss and or financial harm that was likely to be caused.

The Respondents deny the allegations and are defending the class action. The Respondents maintain the Decision was validly made. The Respondents contend that the Decision was not inconsistent with the purposes of the relevant legislation which were not limited to maintenance of the export trade and they deny that the Decision was unreasonable or disproportionate. Further, the Respondents maintain that the Minister honestly believed on the basis of legal advice that the Decision was within power.

Brett Cattle Company claims that it suffered loss and or financial harm as a result of the Decision and is therefore entitled to damages. Brett Cattle Company also seeks a declaration from the Court that the Decision was invalid. Brett Cattle Company claims damages from the Minister and the Commonwealth (on the basis that the Commonwealth is legally responsible (vicariously liable) for the Minister’s actions). Brett Cattle Company alleges in its statement of claim that class members also suffered loss and or financial harm and are entitled to damages.

5. Are you a class member?

You have received this notice because you may be a class member in the Live Cattle Trade Ban class action against the Respondents.

You are a class member if:

(a) on or around 7 June 2011, you derived financial benefit from:

(i) producing cattle in Australia which were sold for live export to the Republic of Indonesia ("Producers");

(ii) exporting cattle from Australia to the Republic of Indonesia ("Exporters"); or

(iii) providing transport services, mustering services, feed, agistment and/or other incidental services to Producers and/or Exporters; and

(b) you suffered loss and or financial harm or damage as a result of the Export Control (Export of Live-stock to the Republic of Indonesia) Order 2011.

If you are unsure whether or not you are a class member, you should contact Mr Andrew Gill on (02) 6225 3260 or email Andrew.gill@minterellison.com and/or seek your own legal advice without delay.

6. Will you be liable for legal costs?

You will not become liable for any legal costs simply by remaining as a class member for the determination of the common questions. The common questions are those questions that are common to the claims of Brett Cattle Company and the class members. In the present case the common questions are those concerning whether or not the Decision was invalid and whether or not the Minister acted recklessly because he did not care whether it was invalid and was likely to cause loss and or financial harm. However:

(a) if the preparation or finalisation of your personal claim requires work to be done in relation to issues that are specific to your claim, you may incur costs and become liable for costs. You can engage Minter Ellison or other lawyers to do that work for you. A copy of the terms on which Minter Ellison are acting in the class action may be obtained from them, at no cost to you, using the number shown below in paragraph 10;

(b) if any compensation becomes payable to you as a result of any order, judgment or settlement in the class action, the Court may make an order that some of that compensation be used to help pay a share of the costs which are incurred by Brett Cattle Company in running the class action but which are not able to be recovered from the Respondents; and

(c) class actions are often settled out of court. If this occurs in the class action, you may be able to claim from the settlement amount without retaining a lawyer.
7. What will happen if you choose to remain a class member?

Unless you opt out, you will be bound by the outcome of the class action. If the class action is successful, you will be entitled to share in the benefit of any order, judgment or settlement in favour of the Brett Cattle Company and class members. In some cases you may have to satisfy certain conditions before your entitlement arises. If the action is unsuccessful or is not as successful as you might have wished, you will not be able to sue on the same claim in any other proceedings.

8. How can you remain a class member?

If you wish to remain a class member there is nothing you need to do at the present time. Brett Cattle Company will continue to bring the proceeding on your behalf up to the point where the Court determines those questions that are common to the claims of the Brett Cattle Company and the class members. However, you are invited to contact the Brett Cattle Company’s lawyers, Minter Ellison, on the number below at paragraph 10(b) and register so that future notices about the Brett Cattle Company class action can be sent to your preferred address.

9. How can you opt out of the proceeding?

If you do not wish to remain a class member you must opt out of the Brett Cattle Company class action. If you opt out you will not be bound by or entitled to share in the benefit of any order, judgment or settlement in the class action, but you will be at liberty to bring your own claim against the Respondents, provided that you issue Court proceedings within the time limit applicable to your claim. If you wish to bring your own claim against the Respondents, you should seek your own legal advice about your claim and the applicable time limit prior to opting out.

If you wish to opt out of the class action you must do so by completing a “Notice of opting out by class member” in the form shown below (Form 21 of the Court’s approved forms), then returning it to the Registrar of the Federal Court of Australia at the address on the form. IMPORTANT: the Notice must reach the Registrar by no later than 4.00pm on 1 April 2016, otherwise it will not be effective.

You should submit the Notice of opting out by class member if:

(a) you qualify as a class member and you wish to opt out of the class action; or

(b) you believe that you have been incorrectly identified as a class member, because you do not meet the criteria set out in section 5 headed “Are you a class member” above.

Each class member wishing to opt out should fill out a separate form. If you are opting out on behalf of a company or business please provide your name, the name of the company or business and your position within the company or business (e.g. director or partner).

10. Where can you obtain copies of relevant documents?

Copies of relevant documents, including the originating application starting the Brett Cattle Company class action in the court, the statement of claim, and the defence, may be obtained by:

(a) inspecting them between 9am and 5pm at one of the offices of Minter Ellison, contact details for which are available from www.minterellison.com or by calling (02) 6225 3260;

(b) inspecting them on the Federal Court website: www.fedcourt.gov.au or by visiting a District Registry of the Federal Court in Sydney, Canberra, Melbourne, Brisbane, Adelaide, Perth, Hobart or Darwin: the addresses for these registries are available at www.fedcourt.gov.au or by calling the New South Wales District Registry on (02) 9230 8567.

Please consider the above matters carefully. If there is anything of which you are unsure, you should contact Mr Andrew Gill on (02) 6225 3260 or email andrew.gill@minterellison.com. There will be no cost to you for contacting Mr Gill in order to make an initial inquiry of this kind. Alternatively you should seek your own legal advice. You should not delay in making your decision.
Opt out notice

No. NSD1102 of 2014

Federal Court of Australia
District Registry: New South Wales
Division: General

BRETT CATTLE COMPANY PTY LTD
Applicant

COMMONWEALTH OF AUSTRALIA and another named in the schedule
Respondents

To: The Registrar
Federal Court of Australia
New South Wales District Registry
Locked Bag A6000
Sydney South NSW 1235

[Name of group member], a group member in this representative proceeding, gives notice under section 33J of the Federal Court of Australia Act 1976, that [Name of group member] is opting out of the representative proceeding.

Date: [eg 19 June 20..]

______________________________
Signed by [Name]
[Insert capacity eg group member / Lawyer for the group member]

Filed on behalf of (name & role of party) ________________________________
Prepared by (name of person/lawyer) ________________________________
Law firm (if applicable) ________________________________
Tel ________________________________ Fax ________________________________
Email ________________________________
Address for service
(include state and postcode) __________________________________________

[Version 2 form approved 9/10/13]
Federal Court of Australia
District Registry: New South Wales
Division: General

SENATOR THE HONOURABLE JOE LUDWIG IN HIS CAPACITY AS THE FORMER MINISTER FOR AGRICULTURE, FORESTRY AND FISHERIES

Second Respondent